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29 March 2004
7 June 2004
Dr. Jochen Wilke
Beiersdorf AG
Patent Department
Unnastrasse 48
D-20245 Hamburg
Germany

REMINDER

NEXT DUE DATE

9 JULY 2004

Re: Response to Office Action / Filing of RCE
USSN: 09/891,929
Your Ref.: 6713-hf 99/163
Our Ref.: Beiersdorf 722-KGB/HCL
3-month date: 9 June 2004

Dear Dr. Wilke:

We have reviewed the examiner's office action in further detail and have the following comments.

Overcoming the rejections based on Slavtcheff et al. reference

We can overcome this rejection by simply providing a certified English language translation of the foreign priority document, i.e. DE 100 33 717, for this application. Please send us a copy at your earliest convenience.

Overcoming the rejections based on Hewitt et al. reference (U.S. Patent 3,842,847)

These rejection are a little bit more problematic as the Hewitt reference does use aluminum chlorohydrate as an antiperspirant and specifically states that it is used for decreasing the secretion of perspiration and sebum (see col. 6, lines 65-67).

One option is to retreat to the position represented by claim 21 which would still encompass Examples 2-7 in your specification. While this would place us in a stronger position to argue for allowable subject matter, we anticipate that this examiner would still maintain her rejection based on obviousness.

Our best option for overcoming the examiner's rejection would be to provide a declaration which compares the effect of a composition with aluminum chlorohydrate alone vs. aluminum chlorohydrate + distarch phosphate or cyclodextrin. It is stated on page 3, lines 32-35 of the specification that there is a "synergistic intensification of the effect of the individual substances". In U.S. practice, this cannot be asserted by mere statement or argument and we will need the declaration to make the assertion of synergistic effects.

Can you provide this declaration and if so, how much time would you need?

NORRIS MCLAUGHLIN & MARCUS, PA

Dr. Jochen Wilke
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Closing

We will wait for your instructions before responding to this office action. If you have any questions or comments, please do not hesitate to contact me.

Mit freundlichen Grüßen,

NORRIS MCLAUGHLIN & MARCUS

By

Howard C. Lee

Howard C. Lee
Reg. Patent Agent

HCL/ag

Attachment: Copy of proposed claim amendments